

1 information that requires us to buy it in order to
2 unearth the essential part that we need for the
3 particular service that we want. And we'd like to
4 have this Commission direct BellSouth to set all of
5 its prices based on the incremental cost with a
6 reasonable return on their profit, and not to bundle
7 any of their services, and sometimes pushing the rates
8 up so high that that alone prohibits equal access to
9 such essential information.

10 As I said earlier, BellSouth has no
11 restrictions imposed on them, or limitations, in what
12 they can develop for new products and services to the
13 community at large with the use of this directory
14 database information to their customers. And since we
15 are the direct competitor to them in the market, they
16 should not be allowed to be in a position to impose
17 limitations on us, their competitor, where they don't
18 have the same limitations imposed on them. And we
19 think it's essential that this Commission direct
20 BellSouth to offer all of these services unbundled
21 without limitations so as to create a level playing
22 field.

23 In a market where we compete, if we
24 published a directory that has incomplete, inaccurate
25 and out-of-date information, the tendency is not to

1 use our directory if they have an alternative source
2 that does have complete, accurate and up-to-date
3 information, which, in turn, creates an unfair usage
4 advantage to BellSouth on their directory.

5 Number two, in the competition for selling
6 of directory advertising in the Yellow Pages, people
7 will not invest or have a perception to invest in
8 advertising in a directory that is perceived to have
9 incomplete, inaccurate and out-of-date information,
10 compared to a directory in the marketplace that does
11 have complete, accurate and up-to-date information.

12 **CHAIRMAN JOHNSON:** Mr. Screven, this is
13 supposed to be summary. I appreciate your comments --

14 **WITNESS SCREVEN:** That is the conclusion of
15 my summary of my testimony.

16 **MR. HORTON:** Mr. Screven is available.

17 **MR. KITCHINGS:** May I proceed, Madam
18 Chairman?

19 **CHAIRMAN JOHNSON:** Yes, sir.

20 **MR. KITCHINGS:** Thank you.

21 **CROSS EXAMINATION**

22 **BY MR. KITCHINGS:**

23 **Q** Good morning, Mr. Screven. I'm Langley
24 Kitchings with BellSouth.

25 **A** Good morning.

1 Q Mr. Screven, initially I'd like for us to
2 make sure we agree upon everything that it is that you
3 want.

4 If I followed your summary correctly, your
5 company, the Florida Independent Directory Publishers,
6 want four things of this Commission, and please
7 correct me if I'm wrong, but you mentioned format,
8 which is I presume how you are able to print
9 directories or use them in some other form; is that
10 correct?

11 A We don't want any limitation as to format,
12 that is correct.

13 Q You also want a new product which gives you
14 a listing of new connects in a particular community;
15 is that correct?

16 A Yes, that is correct.

17 Q And you would like, also, an update service.
18 And your position is that BellSouth's monthly refresh
19 is not adequate; is that correct?

20 A Yes.

21 Q Okay. And also you have addressed the
22 question of the cost of these services; is that
23 correct?

24 A Yes.

25 Q Are there any other services which you are

1 requesting of BellSouth this morning?

2 A Outside of this issue on the docket, no.

3 Q Well, --

4 A If I may clarify that.

5 Q Please.

6 A There are other services that we probably
7 would like to have if we could delve into it, but the
8 issues today are limited to what is on this docket, am
9 I correct?

10 CHAIRMAN JOHNSON: Yes, you are correct.

11 A All of the issues on the docket are what we
12 are after.

13 Q The ones we've just enunciated are all the
14 ones that you're asking for within the parameters of
15 this docket?

16 A Yes.

17 Q Okay. Now, is it your testimony,
18 Mr. Screven, that you're here on behalf of all of the
19 publishers within the organization known as the
20 Florida Independent Directory Publishers?

21 A There's no association, no, that's not
22 correct.

23 Q Who do you represent here today?

24 A There are roughly 16, 17 independent
25 publishers in the state of Florida, or publish

1 directories in the state of Florida, and collectively
2 and together we've sort of gotten together to present
3 this issue. And I have sort of evolved as the
4 spokesperson representing the various publishers.

5 Q That's what I'd like to explore a little bit
6 with you. In a data request response to the Staff you
7 enumerated some 13 companies in your group. Is it
8 your testimony that there are more than 13 today?

9 A Sometimes it fluctuates, Mr. Kitchings. I
10 don't know the exact number today. We know that a
11 couple of other publishers have closed and some other
12 publishers have come in to compete.

13 Q Do you know how many independent publishers
14 operate in the state of Florida or publish directories
15 in the state of Florida today as a total?

16 A No, I don't know.

17 Q Okay. Now, of the ones that you have -- I
18 believe to use your words, you've gotten together with
19 and you've informally been elected as chairman or
20 spokesperson for that group, is it your testimony that
21 each one of those companies want exactly the items
22 that you are requesting here this morning?

23 A Yes.

24 Q And --

25 A To some extent all or portions thereof.

1 Q Well, I'm not sure I understand the answer
2 now. Initially you said yes and now you're saying a
3 portion thereof. Is every one of those companies
4 requesting these services that you're requesting this
5 morning, or just some portion of them?

6 A They are requesting availability and access
7 to these services, yes.

8 Q Okay. So hypothetically if you're given,
9 granted all of the requests that you have made this
10 morning by the Commission, are you authorized to
11 commit that each one of these companies is going to
12 purchase these services from BellSouth?

13 A Of course not.

14 Q Mr. Screven, to your knowledge have any of
15 these companies contacted BellSouth individually to
16 request these types of service?

17 A To my knowledge, yes. As to the
18 completeness of all of the products and services, I'm
19 not privy to their correspondence. I know in
20 discussions these are some of the services that we
21 have always wanted.

22 Q Can you tell us which companies have
23 contacted BellSouth requesting these services?

24 A I could probably give you the names of
25 publishers in the state of Florida and other places in

1 BellSouth territories that publish directories. And
2 I'm sure that many of them have contacted BellSouth
3 but I'm not sure -- I mean I could do that for you.

4 Q I'm specifically interested in the ones that
5 publish directories in Florida and the ones that you
6 know of of your own personal knowledge that have
7 contacted BellSouth requesting these services?

8 A I'd like clarification. Did I know for sure
9 having seen correspondence, been in the room when they
10 made telephone contact, or based on conversation I had
11 with them or what?

12 Q Any way that you have any knowledge of that,
13 sir.

14 A Well, BRI, the Sunshine Pages out of
15 Meterie, Louisiana, which is represented here today by
16 Mr. Bill Hammock, who just arrived. He can speak for
17 himself, but I have knowledge that he has requested
18 such information.

19 I know that Yellow Book, MLM, Multilocal
20 Marketing, out of Rockwell Center, New York, has
21 directories in Florida. I know that White Directory
22 Publishing Company out of Pensacola; Miracle Strip
23 Enterprises out of Panama City; Key West Publishing
24 Company in Key West Florida; the Phone Directory
25 Company in Daytona Beach, Florida -- or the Complete

1 Phone Book in Daytona Beach, Florida.

2 Q Does that complete your response?

3 A Off the top of my head. I'm sure there are
4 others, but yes, at this point.

5 Q But it's your testimony this morning that
6 each one of those companies has individually contacted
7 BellSouth requesting these types of services?

8 A Yes.

9 Q Now, Mr. Screven, regarding your authority
10 to speak for this group, was your authority given
11 specifically? That is, was it given in writing, was
12 it spoken over a telephone, some sort of conference
13 call or how did you get your authority?

14 A We sort of -- we're members of several
15 associations together, and in discussions and talks
16 among ourselves at meetings we've had we felt like the
17 tariffs that had been filed by BellSouth in a number
18 of states were done in a such a way that we had no
19 notice; as the only customers of these services that
20 Bell did not give us notification and they sort of
21 back-doored us and we had no way of knowing what the
22 filings were. And so when the tariffs were filed and
23 already approved in some states, we found out after
24 the fact -- Florida being one of them -- many of us
25 got very concerned and decided that we needed to

1 protest, or file a complaint about the tariff but we
2 weren't involved in the proceedings that it was
3 approved in. And we also filed it in several states
4 where it was pending. And my understanding is that
5 BellSouth has withdrawn the filing of those tariffs in
6 several of those states.

7 So, yes, we were very concerned on some of
8 the problems that we were faced with in dealing with
9 BellSouth over these issues. And then we felt like
10 when they became tariffs, if they became tariffs, that
11 it was the first forum we had available to us where we
12 could actually sit down and deal with an unbiased body
13 to help us in our plight.

14 Q Perhaps you misunderstood my question,
15 Mr. Screven. I was going to -- I was asking you how
16 you got the authority to speak for this particular
17 group. And I will attempt to rephrase it and ask it
18 again.

19 Were you given authority in writing from
20 this group of directory publishers to represent them
21 and ask for these particular services that you're
22 asking for this morning?

23 A No.

24 Q Was your authority -- was it oral? Was it
25 agreed upon at some sort of group meeting?

1 A It was sort of implied.

2 Q It was implied. There was no specific
3 authority given to ask for these services on behalf of
4 the other companies?

5 A Well, it was implied on the basis that we
6 asked them to help support any legal costs and the
7 fees to contribute dollars so we could have
8 representation in this forum. And by their
9 contributions, I would assume that they would not be
10 contributing any money to measure if they didn't agree
11 with it.

12 Q Is every one of these companies contributing
13 money to this proceeding, to your legal cost for this
14 proceeding?

15 A I think so. I'm not 100% sure but I think
16 just everyone that I've mentioned is.

17 Q Okay. Mr. Screven, what purposes do you
18 want a complete list of new connects for?

19 A Purposes of distributing directories, so
20 that they arrive at about the same time BellSouth's
21 directory is distributed to newcomers.

22 Q Is it for delivery only; is that a fair
23 characterization of your testimony?

24 A Yes, it is.

25 Q Would you be willing to accept a

1 restriction, were you granted this type of service
2 that would be included in the tariff, which would
3 limit the use of a new connect service to delivery
4 only?

5 A New residential connects?

6 Q Residential and business.

7 A No, we would not, unless the restriction had
8 a caveat that said we could contact new business
9 connects for the purpose of selling advertising, yes,
10 which is included in the WBAR right now.

11 Q So you want these new connects for delivery
12 for residential and delivery and advertising for
13 business; is that correct?

14 A Yes. And we would accept the restriction of
15 no contact with residential new connects, yes.

16 Q So you don't want this for any other purpose
17 such as selling to telemarketing firms or anything
18 like that?

19 A Not at all.

20 Q Okay. Now, Mr. Screven, you mentioned some
21 of these other publishers --

22 COMMISSIONER GARCIA: May I ask you
23 something, Mr. Screven, if you don't mind?

24 MR. KITCHINGS: Absolutely.

25 COMMISSIONER GARCIA: Are there restrictions

1 placed on your access to these directories now to
2 providing them to telemarketing firms?

3 WITNESS SCREVEN: We have no knowledge; we
4 have no access to the information -- oh, you mean
5 telemarketing --

6 COMMISSIONER GARCIA: The information you
7 currently receive from Southern Bell, are there
8 limitations to who you can distribute that
9 information?

10 MR SCREVEN: Yes, the information can only
11 be used for the publishing of directories.

12 MR. KITCHINGS: Thank you.

13 Q (By Mr. Kitchings) Mr. Screven, you
14 acknowledged that some of these publishers published
15 in other areas and named a few of the companies.

16 You are aware, are you not, at least as to
17 some of these services, if not all of them, that
18 regional negotiations have occurred. You acknowledge
19 that, won't you?

20 A I'm not sure the word "negotiations" is the
21 proper word. Regional meetings took place, yes.

22 Q Did you participate in those regional
23 meetings?

24 A In two of the meetings, yes.

25 Q Do you recall what services were offered and

1 discussed at those "regional meetings" to use your
2 word?

3 A In general I recall that we wanted equal and
4 fair access to all of the information that was made
5 available to BAPCO from BellSouth on a
6 nondiscriminatory basis as well as at a fair and
7 reasonable price, without restrictions. Yes, that's
8 basically everything we've requested.

9 Q I'm asking, sir, for specific services that
10 you would have requested, such as the monthly refresh
11 and the new connects service. Do you recall what was
12 discussed and offered at those regional meetings?

13 A Offered by whom?

14 Q By BellSouth?

15 A No, sir, BellSouth did not offer anything at
16 those meetings. I think it was an opportunity on
17 Bell's part to ask us what we wanted, and for lack of
18 knowledge of how your system worked and technicalities
19 of the database and extracting information, we had to
20 come up with a variety of starting points and some of
21 the things that we offered were basically nothing but
22 starting points. We had no idea of your capability of
23 delivering those or not.

24 Q So you, for example, don't recall the
25 monthly refresh option being discussed and offered?

1 A Vaguely they might have been -- that might
2 have happened. But I think that there was a
3 subsequent meeting with some of the technical people
4 involved with independent publishers, met with some of
5 the BellSouth technical people in Atlanta or somewhere
6 and discussed it, the feasibility of it.

7 COMMISSIONER CLARK: Can I interrupt just a
8 minute? I want to be clear as to why the refresh
9 option is not satisfactory to you. What is it about
10 it that is unattractive as a service?

11 MR. SCREVEN: Well, Commissioner Clark, we
12 buy the initial database download once a year for the
13 publishing of our directory. What we would
14 essentially be doing is buying the same information,
15 as I understand the proposal, 12 additional times a
16 year, which means we would have to download that and
17 compile it with the existing database and to merge and
18 purge and so forth. And it really puts a burden on us
19 to have to start all over each month on a monthly
20 basis.

21 COMMISSIONER CLARK: You're saying the
22 refresh option gives you the whole database again.

23 WITNESS SCREVEN: Yes, ma'am. The same
24 database that we initially purchased is given to us 12
25 additional times a year, that we have to merger and

1 purge, compare it and then extract the new changes,
2 additions and deletions, which puts an undue burden on
3 us to obtain that information.

4 COMMISSIONER CLARK: So what you want in the
5 refresh option is only the activities that occurred in
6 the last month?

7 WITNESS SCREVEN: Yes, ma'am, which is the
8 daily service orders that Bellsouth provides to BAPCO
9 right now.

10 COMMISSIONER GARCIA: But you want more than
11 that. I mean you want it in a different format with
12 different information, if I'm not mistaken.

13 WITNESS SCREVEN: We would like to have the
14 complete activity for a specific central office or
15 area or prefix exchange, that from one point to
16 another point in time only that information that has
17 changed, or been added or -- and notification of
18 certain deletions -- and we think the information
19 should be annotated and coded in such a way that we
20 can determine the type of service order that
21 precipitated that change.

22 COMMISSIONER CLARK: And the refresh doesn't
23 do that?

24 WITNESS SCREVEN: No, ma'am, to my knowledge
25 it doesn't.

1 COMMISSIONER CLARK: Have you seen it?

2 WITNESS SCREVEN: No. I don't know of
3 anyone that has purchased it.

4 COMMISSIONER CLARK: I'm sorry, go ahead.

5 MR. KITCHINGS: Thank you.

6 Q (By Mr. Kitchings) Mr. Screven, do you
7 publish directories in Florida outside of BellSouth's
8 certificated territory?

9 A Outside of BellSouth?

10 Q Yes, sir. In Florida. For example in GTE's
11 or ALLTEL's territory?

12 A I publish a directory in Fernandina Beach
13 that has distribution outside of BellSouth's local
14 area.

15 Q How do you get your information in that area
16 to compile your directory?

17 A Well, we've contacted ALLTEL, who is the
18 local exchange service provider there. And to be
19 quite honest with you, I've written them at least 12
20 letters, three or four of them certified mail, and
21 they've never responded to any of them. I did make a
22 phone call once and they did tell me they would sell
23 me the listing at 98 cents a piece. I could not
24 afford to purchase listings at that price.

25 So what we have done is we take their

1 existing publication on the street -- which as you
2 know because of the Feist decision at the Supreme
3 Court is no longer copyrightable -- and we take that
4 information and we extract it from their directory and
5 include it in our publication in the Fernandina Beach
6 market. That was the only way we have access to that
7 information on a reasonable basis.

8 Q So you use their prior directory to publish
9 your directory, or their directory that is on the
10 street you utilize in order to publish yours?

11 A That's correct.

12 Q Their price they were asking you is 98 cents
13 per listing; is that correct? Did I hear you
14 correctly?

15 A Yes.

16 Q Can we agree that that's a great deal more
17 than what BellSouth is charging you per listing?

18 A I would agree that it's extremely more
19 unreasonable than Bell, yes.

20 Q Okay. Mr. Screven, is it fair to
21 characterize your testimony that you want to get
22 exactly what BAPCO gets from BellSouth
23 Telecommunications?

24 A Within the parameters of service the
25 directories in the areas that we publish, yes.

1 Q Are you willing to develop at your expense
2 the systems that would be necessary to receive the
3 data in the same format that it is transmitted to
4 BAPCO, in other words, a raw data stream?

5 A We're not willing to develop -- give anyone
6 a cart blanche yes on that because we don't know what
7 is required to develop from your system that you
8 presently have in place.

9 Q But, nevertheless, it is your testimony you
10 want exactly what BAPCO gets today; is that correct?

11 A Well, that is not correct.

12 It is our understanding BAPCO receives all
13 of the information that we need that is necessary for
14 us to publish and compete, and we would like to have
15 at least that amount of information.

16 Now, we don't know as to what format and
17 what method is the best to transmit that information
18 to us. We do know that the information we receive
19 from you now has certain codes in the database that
20 could easily be sorted and extracted with those codes
21 and identifying codes of the information that we need
22 without the necessity of going out and developing a
23 whole new service.

24 Q Let me see if I understand.

25 It's your testimony that BellSouth has the

1 new connect data and transmits it as such to BAPCO
2 today? Is that your understanding of what happens?

3 A I'm not sure I follow that. Explain that.
4 Ask me that again.

5 Q Let me see if I can rephrase and ask it a
6 different way.

7 Is it fair to characterize your testimony
8 that you would like BellSouth to develop at its cost a
9 service which provides you a listing of new connects,
10 and nothing else but new connects. Is that a fair
11 characterization of your testimony?

12 A Partially yes and partially no. Yes, we
13 would like to have that information. No, we don't
14 think that Bell has to develop it because it's readily
15 available on their database by identification of "R"
16 for residence, "B" or business and "G" for government.
17 And it can be easily extracted from your databases
18 based on the date that the service order was entered
19 into the database, which precludes the need of
20 development cost of a new product.

21 Q Does that complete your response?

22 A Yes.

23 Q Okay. Mr. Screven, in your testimony you
24 state that you would require, I assume -- or maybe
25 you're just requesting it, but I think you said that

1 you require the billing address of a customer. Why do
2 you need the billing address of a customer?

3 A For two reasons. Number one, when a new
4 mover or a new connect moves into a community,
5 oftentimes there is a -- if we deliver the book by
6 U.S. Mail, there are a lot of people in some of the
7 smaller communities where we are who have Post Office
8 boxes and do not accept any mail at their home.
9 Consequently, if we mail one to their street address,
10 the post office will not forward our directory to that
11 individual unless we have their correct mailing
12 address. And they just throw it away and we have no
13 way of knowing if the book was delivered. This is a
14 very common occurrence in some of the smaller
15 communities.

16 Number two, we don't necessarily need to
17 know the name of a business -- I mean of an
18 individual, if they have requested for a nonpublished
19 or nonlisted listing in their directory or
20 information. And all we want is just their address so
21 we can mail a directory to them and we could care less
22 if it is listed or unlisted.

23 Q But help me understand, Mr. Screven, if you
24 have the mailing address or the residential address or
25 the business's address, why would you need the billing

1 address in addition to that address? I'm not sure I
2 understand what you're saying?

3 A If the billing address is different from the
4 street address.

5 Q Yes, sir.

6 A I cannot imagine, and there could be
7 exceptions, a situation where an individual in a
8 community would have a different billing address from
9 their street address. But if it was different, we
10 would certainly make the attempt to deliver it to the
11 physical street address where the telephone service is
12 located.

13 All we're doing is trying to cover our bases
14 so we can make sure that our book is delivered to all
15 new connect people so we have an opportunity to have
16 them choose our directory as well as BellSouth's;
17 that's all we're after.

18 Q So again it's for delivery purposes?

19 A Yes. There's no ulterior motive; there's no
20 underpending reason behind this.

21 Q So the same question that was asked earlier,
22 if you were granted this request and you were given
23 the billing address, would you accept a restriction
24 which would limit the use to delivery purposes only?

25 A Yes, we would.

1 Q Use of billing?

2 A Yes, we would.

3 Q Okay. Thank you. I'd like to turn to
4 sources of directory information.

5 COMMISSIONER CLARK: Mr. Kitchings, can I
6 interrupt you for just a minute?

7 MR. KITCHINGS: Yes, ma'am. Absolutely.

8 COMMISSIONER CLARK: What about unpublished
9 or nonpublished numbers, would you also accept the
10 restriction that it could only be used for delivery
11 purposes?

12 MR. SCREVEN: Yes, ma'am, gladly.

13 MR. KITCHINGS: May I proceed? Thank you.

14 Q (By Mr. Kitchings) Mr. Screven, I'd like
15 to talk about sources of directory information. We
16 touched on it a bit earlier, but I'd like to go into
17 it in a little more detail at this point.

18 It is your contention that there are no
19 other sources for directory information other than
20 BellSouth to publish directories in BellSouth's
21 territory; is that correct?

22 A That is our contention on the basis that
23 there is no alternative source available to us that we
24 could have the expedient use and timely use of that
25 information that would allow us to compete with Bell

1 who furnishes -- to compete with BAPCO, who furnishes
2 it to Bell, BAPCO on an equal timely basis.

3 Q Are you aware, sir, that there are in excess
4 of 200 directory publishers that publish directories
5 in BellSouth's region regionwide today?

6 A 200 publishers or 200 directories?

7 Q 200 publishers.

8 A No, I'm not aware of that total number.

9 Q Would you accept that, sir, subject to
10 check?

11 A If you say so, yes.

12 Q Are you aware or would you accept, subject
13 to check, that 111 of those 200-plus publishers
14 subscribe to DPDS?

15 A Yes, I would accept that, subject to check.

16 Q Where would these other companies get their
17 information if they don't get it from BellSouth?

18 A They would get it from the directory on the
19 street. And if I may explain why they use a directory
20 on the street is because for whatever reason, they've
21 discontinued buying services from BellSouth, and many
22 of them have realigned the publishing data of their
23 directory to come out within 30 days of Bell's
24 directory and, therefore, utilizing the current date
25 in Bell's directory as a source that would give them

1 at least the current information within 30 days of
2 Bell's being published, which negates the need for
3 involving themselves with the costly services and
4 limitation imposed by either tariff or license
5 agreements.

6 Q Now, there are, in fact, other sources of
7 information, are there not, other than BellSouth's
8 DPDS service or BellSouth's directory?

9 A For purposes of publishing a competing
10 directory?

11 Q Yes, sir.

12 A If you say so, I assume there probably is.
13 I know of none.

14 Q Let's talk about a few of them. I believe
15 in your response to the Commission Staff's data
16 Request 25 you listed several of those sources and
17 I'll walk through them, give you the list and you can
18 tell me which ones you disagree with are a source of
19 information for the directory publishing: Chambers of
20 commerce, cellular telephone companies, county legal
21 notices, welcome wagons, newcomers' clubs, various
22 other organizations, business licenses. Those were
23 the ones that I took down from your Data Request
24 Response 25. Do you agree that those are other
25 sources for directory publishing information?

1 A Yes, I would agree that those are sources,
2 the same as the current telephone book on the street
3 is a source. But it's not an adequate source to
4 utilize for a complete compilation of all business and
5 residential listings that would allow us to compete
6 with a complete compendium of information.

7 Q Are there other sources such as realtors and
8 perhaps other utility records?

9 A Well, Mr. Kitchings, I'm not sure what the
10 cost to unearth this information would be, but it's
11 certainly exorbitant on a small business person to
12 have to hire someone to do nothing but extract this
13 information. This is supplemental information that
14 publishers use to just -- to augment what they
15 currently are doing to compete.

16 Q Do you recall my question?

17 A Yes.

18 Q I believe it was are there other sources of
19 information?

20 A Yes. And I qualified it by saying it is not
21 a single source that anyone would use and the cost to
22 unearth it as a single source would be prohibitive.

23 Q We can agree there are, in fact, other
24 sources other the BellSouth directory and BellSouth
25 directory information, can't we?